

May 19, 2003

California Energy Commission
Docket Office
Attn: Docket No. 03-RPS-1078
1515 Ninth Street, MS-4
Sacramento, CA 95814-5512

VIA EXPRESS MAIL

**Re: Pacific Gas and Electric Company Comments On Renewable Portfolio
Standard, Phase II Implementation Issues**

Pacific Gas and Electric (PG&E) appreciated the opportunity to participate in the California Energy Commission's (CEC) May 12, 2003, Phase II Renewable Portfolio Standard (RPS) Implementation Workshop. PG&E respectfully submits these comments for consideration as the CEC finalizes the policy guidelines that will govern the management and distribution of the RPS program funds and the certification, verification, and tracking of eligible renewable generation in compliance with SB 1078 and SB 1038.

Thank you for considering our comments. Please feel free to contact me if you have any questions about this matter.

Sincerely,

Les Guliasi
Director, State Agency Relations

cc: Chairman William J. Keese
Commissioner John L. Geesman
Commissioner James D. Boyd
Commissioner Robert Pernell
Commissioner Arthur H. Rosenfeld

**BEFORE THE CALIFORNIA ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

Implementation of Renewables
Portfolio Standard Legislation (Public
Utilities Code Sections 381, 383.5, 399.11
through 399.15, and 445; [SB 1038], [SB
1078])

Docket No. 03-RPS-1078
RPS Proceeding

Renewables Committee

**PACIFIC GAS AND ELECTRIC COMPANY COMMENTS
ON RENEWABLE PORTFOLIO STANDARD PHASE II IMPLEMENTATION**

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COMMENTS OF PACIFIC GAS AND ELECTRIC ON RENEWABLE PORTFOLIO STANDARD PHASE II IMPLEMENTATION

Pacific Gas and Electric (PG&E) appreciated the opportunity to participate in the California Energy Commission's (CEC) May 12, 2003, Phase II Renewable Portfolio Standard (RPS) Implementation Workshop. PG&E respectfully submits these comments for consideration as the CEC finalizes the policy guidelines that will govern the management and distribution of the RPS program funds and the certification, verification, and tracking of eligible renewable generation in compliance with SB 1078 and SB 1038.

GUIDELINES FOR SUPPLEMENTAL ENERGY PAYMENTS

Introduction

While many of the issues involving the management and distribution of SEPs more directly impact the relationship between the renewable generator and CEC, there are several areas that indirectly involve the retail sellers. The retail sellers' solicitation of renewable energy needs to be coordinated with the generators' application, certification, and SEP awards administered through the CEC. Sequencing the utility and the CEC processes needs to be seamless in order to facilitate an effective and efficient RPS implementation. Thus, it is important for CEC to make decisions in the certification, verification, and SEP awards process that consider the utility's timeline for RFO solicitations, bid evaluation, and contract awards.

Certification and SEP Award

PG&E supports the concept that a certification process be established up-front that would allow a generator to register with the CEC for RPS eligibility at any time. The CEC should establish an RPS registry or pre-approval process that pre-qualifies eligible renewable generators for participation in the RPS program. The pre-approval process should not be a requirement or a prerequisite for a generators' participation in an RPS solicitation but rather, the registry would simply be a tool to streamline the post-bid evaluation timeline. If the generator has not pre-registered with the CEC to ascertain RPS eligibility, they should not be foreclosed from participating in a utility's RFO. However, renewable generators should be encouraged to begin the application process with the CEC in a timely fashion in order to facilitate efficient bid selection.

PG&E advocates that SEP awards be encumbered after the IOU has selected winning bids from an RFO. PG&E would prefer to have the award and encumbrance be final prior to submitting the winning bids to the CPUC however, the discussion at the workshop indicated encumbrance is a legal designation and conditional pending the generators' compliance with other mandated milestones. Thus, PG&E understands that the process may necessarily be a preliminary award determination by the CEC prior to IOU's submittal to CPUC for approval.

The CEC's milestones and other conditional requirements for SEP award should be synchronized with the IOU's contract terms. The power contract will be the document

governing the generator's obligations for commercial operation, power delivery, and other performance and financial matters. The contract terms will clearly spell out the generator's performance obligations and can be used by the CEC as an easy standard.

The CEC should adopt performance criteria for SEP payments consistent with the retail seller's contractual language since the SEP is a supplemental energy payment. Consistency between the contractual performance criteria and the CEC performance criteria should simplify the regulatory oversight and the performance reporting requirements. SEP payments should be made on a monthly basis and should be subject to termination if the generator defaults on its contract with the IOU. The IOU should provide timely notification to the CEC of any generator contract default. Both the IOU and the project developer should be required to report to the CEC on achievement of project milestones. If the IOU / generator contract does not provide for CEC access to relevant contract terms and generator progress on meeting milestones, the CEC should make SEP awards contingent on a disclosure agreement giving it access to the contract as well as the status of attainment of those milestones.

SEP payments should be made to the power supplier, such as the generator or entity with responsibility for fulfilling the obligations of the power contract. The payment stream should go from the CEC to the power supplier, not through the retail seller. Generation claims should be documented with ISO quality settlement data. There may be a need to provide supplemental data to address generation reductions resulting from contractually required curtailments.

Existing SEP Awards

Another overlapping process issue involves developing guidelines for RPS participation if a generator has an existing SEP award. Renewable generation facilities with funds encumbered from the new account before January 1, 2002, should be eligible to participate in an utility RFO; however, the generator will need to disclose to the utility its award status and, whether its bid evaluation should include or exclude the existing award. The generator should not receive the benefit of double subsidies under the existing and new renewable programs; nor should it be allowed to submit multiple bids requiring the IOUs to evaluate bid ranking with and without existing and new subsidies. Fairness dictates that in evaluating a generator's bid, the utility should assume one award scenario. The generator will need to declare at the time it submits the bid which SEP award it prefers. A generator that has an existing award but prefers the current RPS funding award will be required to relinquish its old encumbrance if its bid is selected as the winning bid.

Renewable generation facilities with existing encumbrances should be eligible to enter into bilateral contracts with an IOU. However, if a generator chooses to use encumbered funds awarded before January 1, 2002, it will not be eligible for RPS SEP funding in the future.

Allocation of SEPs to Retail Sellers

The CEC has introduced the concept that the RPS program funds may be allocated to the retail sellers' RPS purchases. During the workshop discussion the concept was referred to as a soft allocation. PG&E supports this proposal as it is an efficient means to preserve the retail sellers' ability to meet not only its annual procurement obligation but also to meet the overall program goal of 20 percent renewables by 2017. The CEC should allocate available funding among retail sellers by IOU service territory based on retail load. The load allocation methodology should also include Direct Access and Community Aggregators subject to RPS.

A guiding principle in developing the allocation of available program funds is that no one retail seller should receive a disproportional share of the available SEP funds in any one year. The duration for the soft allocation should link to the flexible compliance rules that are currently being considered by CPUC. That is, if it is determined that a retail seller has a three-year compliance window, the funding allocation should be reserved for a period of time consistent with the compliance window.

In order for the flexible compliance rules to work as intended, it is important that SEP funds not be awarded simply on a first come, first serve basis. This kind of award structure may set-up a situation where competition for limited SEP funds creates a gold rush of activity early each year. An allocation would facilitate a more orderly, sequenced process whereby the obligated entities would have assurance that funding would be available for some period of time. A retail seller who falls short of its target in one year will need to make up the shortfall in future years to meet the 20% renewables goal. Thus, funds need to be reserved to allow the retail seller to contract for more renewable energy in later years. The allocation of SEP funds should ensure that all retail sellers have a fair opportunity to satisfy both their annual procurement targets (APTs) and their ultimate 2017 RPS program goals.

One additional allocation issue that was considered during the workshop involved limiting funds awarded annually to any one project based on a predetermined percentage. PG&E does not believe that there is a need to limit the funds awards to individual projects. Such allocations would inappropriately favor small renewable generation projects.

GUIDELINES FOR CERTIFICATION PROCESS AND ACCOUNTING SYSTEMS

Introduction

PG&E supports the CEC's development of certification, verification, and accounting systems that monitor the implementation of California's RPS program as required by Section 399.13 of the Public Utilities Code. Comprehensive and reliable monitoring systems are needed to ensure compliance with RPS requirements. While the capacity of the interim monitoring system will necessarily be constrained by current data sources and timeline, when considering the needs assessment and design of the optimal system, PG&E urges the CEC to be mindful of its primary objective. The primary objective for the optimum accounting system should be to track and verify bundled renewable energy transactions that include all environmental attributes.

PG&E emphasizes that development of an electronic "certificate" tracking system should not pre-judge any determination about the use of renewable energy certificate (REC) *trading* for RPS compliance. As well, PG&E cautions that California ratepayers should not bear any system costs beyond what is necessary to ensure SB 1038 and SB 1078 compliance; it is inappropriate for California ratepayers to pay for systems needed by other states or by a private voluntary REC trading market.

However, PG&E does advocate that evaluation of an electronic system platform give consideration to scalability to meet future regulatory obligations or market opportunities. The optimal system should be capable of incorporating additional design features as well as interfacing with a variety of platforms.

Certification

Certification should be mandatory for all RPS participants, and enforced through periodic reporting and random site audits. Participants and ratepayers are expending significant resources to comply with the RPS mandate. Participants and the public need to be assured that all generators and retail sellers are held to the same high standards and that ratepayers are receiving energy from eligible renewable generators. At this same time, participants and regulators must be mindful not to overburden the enforcement resources or cause unreasonable delays in certifying and verifying eligible renewable generation. The rules for the application and certification process should be made as straightforward as possible so as not to discourage participation. Once the CEC has confirmed that the generator is an eligible renewable, it should receive an official notification from the CEC of its status.

Every “eligible renewable energy resource”, as defined by Pub. Util. Code Section 399.12(a), in the state should be registered even if it is not intended for RPS participation, as generation from such a facility may someday be intended for RPS participation. This will help prevent double counting and better allow for monitoring renewable generators that sell their environmental attributes to an out of state entity. To qualify for SB 1038 funding or RPS compliance, all facilities should be required to submit data to substantiate their eligibility. In some cases (e.g., existing qualifying facilities) FERC self-certification might prove adequate, in others, the CEC needs to have access ISO polled meter data, fuel invoices, and fuel usage measurement. In all cases, the CEC must retain the right to undertake random audits.

Verification and Accounting System

The CEC’s final report should accomplish the primary objectives noted in the workshop agenda in establishing an accounting and verification system. The CEC identified the following primary objectives for the accounting systems:

- a. RPS Tracking
 - i. Annual RPS targets
 - ii. Flexible compliance
 - iii. Prevent double counting with other state RPS requirements
- b. Verify Retail Product Claims

The CEC should distinguish between the certification, verification, and accounting systems that are necessary to support and ensure compliance with SB 1038, SB 1078, and the existing California RPS program from those that may eventually be needed to develop successful, regional, national, or international RPS and voluntary green markets. Resources should not be wasted developing and committing to an expensive system design before we clearly understand the critical elements required to run an effective monitoring system.

PG&E has reviewed existing registration and data reporting procedures at the CEC, (Energy Information Administration (EIA), and the Federal Energy Regulatory Commission (FERC) and is comfortable that the current sources can be used in a “contract-path” tracking and verification system to meet the state’s interim needs (e.g., Form EIA-906, FERC Form 1). Interim, manual systems with standard contractual guarantees are adequate for verifying RPS compliance for bundled (attribute + energy) sources. Small modifications to existing registration and data collection procedures should be adequate to ensure RPS compliance in this interim period. Eligibility certification, SEP payment, tracking, and verification systems are needed immediately to support the RPS Program that will be underway this year. However, as the volume of renewable energy grows and the regional and product scope for RPS compliance expands, an electronic tracking system will be inevitable.

In order to implement California's RPS program, the optimal system does not need to be designed to facilitate unbundling of environmental attributes or the trading of renewable energy credits. The CPUC has made a preliminary ruling that all RPS transactions will bundle energy and renewable attributes. Thus, there is no need to track or account for environmental attributes separately from the energy at this time. The CEC should resist attempts by interested parties to use this forum to further renewable credit trading programs. This is not the venue to debate the policy concerns surrounding renewable energy credits.

The legislative framework outlined in SB 1078 clearly does not address the interaction of SEP subsidies with credit trading. While a credit trading system may be authorized by the California Public Utilities Commission (CPUC) for RPS compliance sometime in the future, a full debate on the design, implementation, and cost recovery issues has yet to take place.

California Ratepayers Should Only be Responsible for Costs Necessary to Ensure California RPS Compliance.

Representatives of several regional authorities at the May 13th workshop spoke enthusiastically about partnering with the State of California on their RPS accounting system design and implementation. It appears that other regional authorities have mandates to implement a renewable tracking system. PG&E cautions that California ratepayers should not bear any system costs beyond what is necessary to ensure RPS compliance; it is inappropriate for California ratepayers to pay for systems needed by other states or by a private voluntary renewable energy certificate (REC) trading market. PG&E agrees with the concept that the RPS monitoring system should be self-supporting. However, parties should be given adequate opportunity to assess cost recovery plans to ensure the burden is allocated fairly.

Other states in the region should pay their share for system development and maintenance. This does not necessarily mean that costs should be allocated relative to load or the number of users. The APX representative noted that cost is not primarily driven by number of users, but rather by the degree of customization required by each state to accommodate unique data tracking fields and local metering protocols, among other reasons. Thus, it could be the case that all states cause an equivalent fixed cost, regardless of size.

Although the accounting system will need to verify that renewable suppliers have not sold their green attributes out-of-state, this alone does not justify California investing in a complex tracking system — double counting can be prevented through less elaborate means.

PG&E recognizes the potential need for a comprehensive, interstate system to facilitate voluntary unbundled REC tracking and trading. Nonetheless, participants in each of the unbundled REC trading markets should contribute to the cost of supporting an interstate system.